

Montana Pro Bono 2015 Annual Report

ATTORNEYS

1,799

PRO BONO HOURS

143,406

EQUIVALENT TO

72 Full-time Attorneys

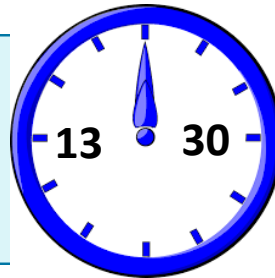
WORTH

\$21 MILLION DOLLARS

57%

Percentage of active Montana attorneys providing pro bono service in 2015

Average hour contribution organized programs



Average hour contribution self-referred pro bono services

Improving Pro Bono

31%
Finite Hours

31%
CLE/Training

20%
Mentor

8-Year Increases

80%

In Montana reporting

85%

In pro bono hours directly to people of limited means

20%
Provided Limited Scope Representation

43%

Provided pro bono services in Family Law



95%

Reported a positive pro bono experience



48%

Provided free services to non-profits and other organizations assisting people of limited means

The Montana Pro Bono Attorney

Most commonly a sole practitioner in practice for 25 years providing 43 hours of pro bono service to a self-referred client.





2015 Montana Pro Bono Final Report

February 2015

Executive Summary

Rule 6.1 of the Montana Rules of Professional conduct states that Montana attorneys authorized to practice law in the state should provide 50 hours of *pro bono publico* service with the substantial majority of those hours devoted to provision of legal services to people of limited means. This summary report outlines results from the data collected from attorney 2015 reporting forms. The highlights of the data are as follows:

Pro bono reporting information was received for a **total 2,759** attorneys with **2,319** (84 percent) reporting primary practice **in-state** and **440** (16 percent) indicating primarily **out-of-state** practice¹. The State Bar of Montana 2015 Attorney Membership Report is included as Attachment 1.

1,799 in-state attorneys **reported pro bono hours in at least one pro bono category** in 2015. In addition, **51 out-of-state** attorneys reported pro bono hours for the benefit of Montanans.

- **1,656** attorneys reporting Montana pro bono hours provided **78,929** hours of pro bono services ***without expectation of fee*** for individuals/families of limited means or organizations designed to assist people of limited means.
- **705** attorneys reporting Montana pro bono hours provided **35,214** hours of pro bono service ***at a substantially reduced fee*** to people/families of limited means or organizations designed to assist people of limited means.
- **543** attorneys reporting pro bono hours provided **18,566** hours of **free** pro bono services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- **118** attorneys reporting pro bono hours provided **10,697** hours of **reduced fee** services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- In addition to reported pro bono hours, **561** in-state attorneys reported **21,001** hours participating in volunteer activities for improving the law, legal system or legal profession.
- 95 percent of reporting attorneys described their pro bono experience as very positive or positive.

¹ 51 Out-of-State Attorneys provided pro bono services for the benefit of Montanans or Montana-based organizations

2015 Pro Bono Hours Recapitulation

CATEGORY	Hours	Category	Total
Without expectation of fees to/for persons of limited means or charitable, religious, etc. serving people of limited means	78,929		
Free to charitable, religious, etc. in furtherance of their purposes	<u>18,566</u>		
Total Free		97,495	
Reduced to people/organizations to/for persons of limited means or charitable, religious, etc. serving people of limited means	35,214		
Reduced to charitable, religious, etc. for furtherance of their purposes	<u>10,697</u>		
Total Reduced Fee		45,911	
TOTAL PRO BONO HOURS			143,406

Analysis of Reported Pro Bono Publico Service Value

(Does not include Volunteer Activities for improving the law, legal system, legal profession)

Free Services	97,495 hours x \$175/hr ²	\$17,140,375.00
Reduced fee services	45,911 hours x \$80/hr ³	<u>\$ 4,017,212.00</u>
TOTAL		\$21,157,587.00

² Hourly rate based median hourly rate of responders to the 2014 Montana State Bar Membership Survey

³ Reduced rate services calculated at one-half the average hourly rate

I. INTRODUCTION

The Pro Bono Reporting process is managed jointly by the State Bar of Montana and the Montana Supreme Court Office of the Court Administrator through its Statewide Pro Bono Coordinator. The Statewide Pro Bono Coordinator was responsible for compiling and analyzing the data. This report summarizes the results of the calendar year 2015 pro bono hours. Pro Bono Reporting is conducted in conjunction with the annual Interest On Lawyers Trust Account (IOLTA) certification. IOLTA reporting is mandatory pursuant to Rule 1.18 of the Rules of Professional Conduct. Pro Bono reporting is voluntary. The Pro Bono Coordinator is not responsible for compiling and analyzing data for IOLTA Compliance.

This report includes information for **2,759 attorneys**, including **2,319 in-state** lawyers received by January 31, 2016. This report does not exclude data received from attorneys with a status other than active. Ninety-eight percent of attorneys filed online and two percent filed the Pro Bono Report through mail or email submission. The quality of the data compiled has increased substantially over the electronic reporting years greatly improving data integrity and analyzing capabilities.

The purposes of reporting are:

1. to identify and evaluate the status of pro bono service in the Montana by Montana attorneys;
2. to assess the time attorneys spend providing pro bono publico and volunteer services, in what categories and to whom those services are provided;
3. to assess the financial impact of pro bono contributions by Montana attorneys;
4. to identify ways to improve pro bono participation and experiences among Montana attorneys;
5. to identify areas of improvement for promoting pro bono services and programs.

II. General Characteristics of Montana Attorneys

This section utilizes the pro bono reporting to present a general overview of practice types of Montana lawyers. Because of the substantial in-state attorney reporting volume, this data provides a general descriptive measure for the overall Montana attorney. Ninety-seven percent of in-state reporting attorneys responded to this question.

II.1 Firm Size/Employment – Generally (Montana only)

The most common firm type/employment status and correlating percentages for reporting attorneys are:

- **29** percent are **solo practitioners** and 88 percent reported pro bono hours in at least one category.
- **23** percent work in **government/public interest** employment and 50 percent reported pro bono hours in at least one category.⁴
- **14** percent are in **3-5 attorney** firms and 88 percent reported pro bono hours in at least one category
- **9** percent are in a **2-attorney firm** and 83 percent reported pro bono hours in at least one category

⁴ 12% state government, 8% county/city government, 2% federal government and 2% other government/public interest

- 9 percent **6-10 attorney** firms and 88 percent reported pro bono hours in at least one category
- The **remaining** percentage is disbursed relatively evenly throughout **firm size larger than 10** attorneys and collectively 84 percent of this category reported pro bono hours in at least one category.

III. PRO BONO SERVICE STATEWIDE

This section presents the analyses result for the 2015 Pro Bono Report data for services provided and hours spent improving the law and the legal system (also found in the Executive Summary).

1,799 attorneys **reported Montana pro bono hours in at least one pro bono category** in 2015. In addition, **51 out-of-state** attorneys reported pro bono hours for the benefit of Montanans.

- **1,656** attorneys reporting Montana pro bono hours provided **82,712** hours of pro bono services ***without expectation of fee*** for individuals/families of limited means or organizations designed to assist people of limited means.
- **705** attorneys reporting Montana pro bono hours provided **35,214** hours of pro bono service ***at a substantially reduced fee*** to people/families of limited means or organizations designed to assist people of limited means.
- **555** attorneys reporting pro bono hours provided **18,566** hours of free pro bono services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- **118** attorneys reporting pro bono hours provided **10,697** hours of reduced fee services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- In addition to reported pro bono hours, **561** in-state attorneys reported **21,001** hours participating in volunteer activities for improving the law, legal system or legal profession.

IV. BENEFICIARIES OF PRO BONO SERVICE

The Pro Bono Reporting Form contains of a series of questions regarding to whom pro bono service was provided and distinguishes between services without the expectation of fee and substantially reduced fees. Responses were not mutually exclusive.

IV.1 Among the **1,799** lawyers who reported pro bono in any category, **1,656** (84 percent) provided services ***without the expectation of fee*** to people of limited means or organizations designed to assist people of limited means. **Table T.1** represents free pro bono hours were distributed across the question base using this category response total. Responses were not mutually exclusive.

Table T.1 – Pro Bono Hours - Without Expectation of Fee – Limited Means

CATEGORY	# Attorneys	Total Hrs.
Referred by MLSA or one of its programs	215	5,178
Referred by organized local or state pro bono program	204	4,212
A court based program	109	2,245
Individuals/families self-referred/outside organized pro bono program	1,124	42,132
Charitable organizations that assist people of limited means	271	6,045
Religious organizations that assist people of limited means	147	2,931
Community organizations that assist people with limited means	189	5,300
Civic organizations that assist people of limited means	92	1,513
Governmental organizations that assist people of limited means	63	2,726
Educational Organizations that assist people of limited means	94	1,642
Organizations seeking to secure/protect civil or public rights and/or liberties	105	5,005
TOTAL		78,929

IV.2 Among the 1,799 lawyers who provided pro bono services in any category, **705** provided **35,214 hours** of services **at a substantially reduced fee** to people of limited means or organizations designed to assist people of limited means. **Table T.2** represents how those substantially reduced fee hours were distributed across the question base using this category response total. Responses were not mutually exclusive.

Table T.2 – Substantially Reduced Fee – Limited Means

CATEGORY	# Attorneys	Hours
Referred by MLSA or one of its programs	37	744
Referred by organized local or state pro bono program	34	1,956
A court based program	18	2,049
Individuals/families of limited means outside organized pro bono	414	16,683
Charitable organizations that assist people of limited means	36	816
Religious organizations that assist people of limited means	22	403
Community organizations that assist people with limited means	26	742
Civic organizations designed to assist people of limited means	14	224
Governmental organizations that assist people of limited means	34	9,949
Educational Organizations that assist people of limited means	13	206
Organizations to secure/protect civil/public rights/ Liberties	19	1,442
TOTAL		35,214

IV.3 Among the 1,799 lawyers who provided pro bono services in any category, **543** provided **18,556 hours of free legal services** and **118** provided **10,697** hours of **substantially reduced fee** service to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes, where payment of fees would greatly deplete their economic resources. Responses to this question were not mutually exclusive.

IV.4 Hours Improving the Law or Legal System

In 2015, **681** reporting lawyers provided **16,197** hours participating in **volunteer activities for improving the law, legal system or legal profession**.

V. PRO BONO SERVICE BY LEGAL TYPE

Family law continues to lead legal type category of individual pro bono service at 43 percent. Non-profit legal work has remained the second most common category for seven successive years and criminal law was the third largest category in 2015 followed closely by Landlord-Tenant. Table T.4 below provides percentages in all categories.

Table T.3 – Pro Bono Service by Category

CATEGORY	Percentage	CATEGORY	Percentage
Family Law	43%	Adoption	7%
Non-Profit	23%	Youth In Need of Care	6%
Criminal Law	21%	ADR-All types	6%
Landlord-Tenant	20%	Self-Help Support	6%
Estate Planning	20%	Conservatorship	5%
Business	19%	Disability Rights	5%
Employment/Labor	15%	Social Security	5%
Probate	13%	Bankruptcy	4%
Consumer Law	11%	Health Law	4%
Elder Law	11%	Tax	4%
Insurance	10%	Human Rights	4%
All other categories	10%	Indian Law	3%
End of Life Planning	9%	Military/Veterans	3%
Guardianship	9%	Indian Law	4%
Civil Rights	8%	Immigration	2%
Domestic Violence	8%	Pro Bono Coordination or Administration	2%

VI. Years in Practice

Eight-nine percent of reporting attorneys provided a response to the number of years in practice. The average of years in practice generally is 19.72.

VII. No Pro Bono

The Pro Bono Reporting Form allowed attorneys to indicate no reportable pro bono hours offered options to indicate reasons for no pro bono hours. **Fifty percent** of no-pro bono hours responses came from **government/public service attorneys**. Note: most responses in the “Other” reason category would otherwise conform to a choice provided with selection boxes. The allocation of percentages across reasons for no pro bono are illustrated in **Table T.5**.

Table T.5 – No Pro Bono Service

REASONS	Percent
Other	28%
Do not have time to do pro bono	25%
Employment/employer prohibits pro bono	15%
No opportunity given to me to provide pro bono	11%
Work outside the practice of law	11%
Only recently been admitted to the practice of law	9%
Cannot afford to do pro bono	9%
Lack necessary skills or training	7%
No reason	7%
Specific rule/regulation prohibits participation	5%
No longer practice law	4%
Unemployed	3%
Do not believe pro bono is my professional responsibility	2%

Also of note are demographics of attorneys who did not submit a 2015 Pro Bono Report and whether this raises the presumption that those non-reporting attorneys did not have pro bono service hours to report.

XIII. PRO BONO SATISFACTION, IMPROVEMENT and LIMITED SCOPE REPRESENTATION

XIII.1 Pro Bono Experience

Approximately 70 percent of attorneys providing pro bono service rated their pro bono experience and **95 percent** of responses indicated the pro bono experience **positive or very positive**. The vast majority of attorneys provided comment for negative or very negative experience indicate clients unwilling to compromise, take advantage of attorneys' time or fail to recognize the value of the service provided.

XIII.2 Improving Pro Bono

Attorneys were asked what could be done to improve the attorney's ability to do pro bono work. Thirty-eight percent of reporting attorneys responded to this question. **Table T.6** below illustrates response percentages.

Table T.6 – How to Improve Pro Bono Participation

REASONS	Percent
Opportunities for finite hour contributions (e.g. legal clinic, limited task representation)	31%
Training/CLE	31%
Administrative support	21%
Experienced attorney mentor	20%
Co-counsel/paralegal/law clerk	20%
Referral from an organized program	20%
Referrals in area of expertise	15%
Thorough case screening –merit and financial	14%
Ability to choose cases from a general solicitation	11%
Expanded opportunity in geographic location	10%
Use of office space or equipment	9%
Other	9%
Accommodations from employer/changes in policies to permit pro bono	7%

Generally, responses not offering a viable opportunity for us to improve ability to do pro bono work (winning the lottery or more hours in a day) were included in the “other” category.

XIII.3 Limited Scope Representation (LSR)

The question concerning provision of LSR pro bono services is new to the 2015 Pro Bono Reporting Form. Seventy-three percent of reporting attorneys responded to this question. **Nineteen percent provided pro bono LSR services and 81 percent did not.**

IX. Comparisons, Trending and Recommendations

IX.1 Three-Year-Comparison (with adjustments)

CATEGORY	2015	2014	2013	2012
Total attorneys reporting pro bono hours in any category	1,799	2,387	2,025	1,618
Total Free Hours	97,495	102,229	106,892	93,384
Total Substantially Reduced Hours	<u>45,911</u>	<u>47,263</u>	<u>50,571</u>	<u>48,603</u>
Total Pro Bono Hours	143,406	149,492	157,463	142,587

Number providing pro bono services: Prior to 2015, the Pro Bono Reporting Form was directly connected to the IOLTA Compliance Statement, a mandatory submission, through a common portal. A change in the reporting platform resulted in independent reporting portals. It is possible the 16 percent decrease in-state pro bono was the direct result of this platform change.

Although there was a 16 percent decrease in overall in-state reporting, total reported pro bono hours decreased by only four percent. This suggests attorneys mindfully entered the pro bono reporting portal because they had hours to report. The data also suggests the number of attorneys providing

pro bono services is increasing, but spend fewer hours on respective pro bono cases suggesting that more individuals may be receiving pro bono services with concentrated efforts on limited tasks and legal clinics.

IX.III Recommendations

Support Systems: Based on the 2015 reporting data, it is recommended that those working in the access to justice arena in Montana consider concentrating development efforts or support allocation for attorneys as follows:

1. Continue expansion of **limited scope representation opportunities** without diluting full representation attorney resources;
2. **Expand** attorney **training opportunities** in the areas of greatest legal need;
3. Development of supportive non-attorney legal professional and law student modules for existing pro bono programs to offer assistance to attorneys taking pro bono cases;
4. Creation or expansion of **mentor-mentee** protocols and opportunities in pro bono programs to provide support to new lawyers and as well as lawyers who wish to provide services in an unfamiliar legal area.
5. Create **signature programs** designed to align with **government and public interest lawyering**.

MEMBERSHIP INFORMATION REPORT

January 8, 2016

By: *Jill Diveley*

MEMBERSHIP TYPE	<u>"A"</u>	<u>"I"</u>	<u>"ID"</u>	<u>"E"</u>	<u>"J"</u>	<u>"AM"</u>	<u>"SU"</u>	<u>"R"</u>	<u>"S"</u>	<u>"P"</u>	<u>TOTAL</u>
Montana	3133	311	12	6	111	4	163	200	110	156	4194
Out-of-State	731	615	1	1	19	29	360	311	74	1	2141
TOTAL	3864	926	13	7	130	33	523	511	184	157	6335

Membership Types: Active, Inactive, Inactive/Disability, Emeritus, Judicial, ActiveMilitary, SUsuspended, Resigned/Retired, Senior, Paralegal

(GENDER & DISTRICT includes Active, ActiveMilitary, Inactive & Senior members)

GENDER	<u>"M"</u>	<u>"F"</u>	<u>TOTAL</u>
Montana	2346	1212	3558
Out-of-State	953	496	1449
TOTAL	3299	1708	5007

(DISTRICT includes Active/ActiveMilitary, Inactive/Senior members)

DISTRICT	<u>"A"</u>	<u>"I"</u>	<u>TOTAL</u>
1	570	77	647
2	84	7	91
3	25	9	34
4	627	86	713
5	48	9	57
6	42	7	49
7	31	4	35
8	225	28	253
9	36	5	41
10	22	1	23
11	243	36	279
12	33	6	39
13	537	63	600
14	6	3	9
15	18	0	18
16	23	6	29
17	22	0	22
18	350	47	397
19	16	1	17
20	76	7	83
21	58	14	72
22	45	5	50

SECTION COUNTS

BANKRUPTCY	95	NAT. RSRCE/ENVIRON.	126
BETTR LAW	233	NEW LAWYERS	385
CONSTRUCTION LAW	59	NONPROFIT LAW	37
CRIMINAL LAW	80	PARALEGAL	160
FAMILY LAW	174	PUBLIC LAW	122
FEDERAL PRACTICE	81	SCHOOL LAW	31
HEALTH CARE LAW	62	VETERANS LAW	53
INDIAN LAW	97	WOMEN'S LAW	114